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No. 94-1607

In The

Supreme Court of the United States

OCTOBER TERM, 1994

JACQUELYNE L. NEAL,

Petitioner,

v.

WILLIAM H. BROWN, III, et al., partners
practicing law under the firm name of
Schnader, Harrison, Segal & Lewis

Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

PETITIONER'S REPLY TO BRIEF IN OPPOSITION

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Since 1990 Respondents have been singing the same-old-song regarding the case of Day v. Avery, 548 F.2d 1018 (D.C. Cir. 1976), cert. denied, 431 U.S. 908 (1977), and have propounded their stale argument upon court-after-court, without having once demonstrated how the facts of Day remotely relate to the facts of the instant case.

Respondents are now (via their brief) chanting their stale argument on the steps of the Supreme Court, without giving a clue as to how Day relates to the instant case. The case of Day obviously does not involve fraud having been committed by licensed attorneys in formulating charges for legal services, and moreover, Day does not even remotely embrace the arena of milking monies from the U. S. Treasury.

In lieu of addressing the facts, arguments, and case law presented in the petition, Respondents ducked and dodged the issues presented and simply 'mouthed' in their brief that the petition allegedly ''raises no question'' which ''merits'' this Court's ''consideration.'' Contrary to Respondents' unsupported conclusionary statement, the petition is replete with factual information which overwhelmingly merits consideration by the Supreme Court of the United States. Respondents' condescending attempt to divert this Court's attention to Day v. Avery, only magnifies the extent of Respondents' desperation.

J. Edward Day (whom the court described as an able and experienced attorney) was a former United States Postmaster General. Day, supra. Day filed a lawsuit in the District of Columbia against a partnership, wherein he was a partner in the law firm, and in the absence of having any District of Columbia citizens as defendants, Day claimed that the partnership, itself, fell within the arena of citizenship because it was doing business in the District of Columbia community. Day, supra.

Unlike J. Edward Day, Petitioner has not once claimed that the partnership fell within the arena of citizenship, and moreover, in the instant case, there were three (3) Respondents who were District of Columbia citizens at the time of removal. The facts surrounding the case of Day are far removed from the facts surrounding the instant case. Petitioner obviously cannot be forced to substitute the facts of her case for the facts surrounding Day, and Petitioner obviously cannot be forced to adopt the testimony propounded by J. Edward Day, notwithstanding the fact that Petitioner is appearing pro se.

Although Respondents pointed out in their brief that the District of Columbia District Court relied upon Day in denying Petitioner's motion to remand, Respondents failed to point out that Petitioner has repeatedly argued that she did not sue the partnership as an entity (unlike Day), and that Petitioner's argument was 'loudly' echoed during her oral argument before the D. C. Circuit, notwithstanding amicus curiae having made stringent efforts to sabotage Petitioner's oral argument by propounding contrary arguments.

Neither the face of Petitioner's Superior Court Complaint, nor her Amended Complaint reflects in the caption that Petitioner was suing Schnader, Harrison, Segal & Lewis Law Firm, nor does the lead paragraph of the Complaint contain the caption of Schnader, Harrison, Segal & Lewis Law Firm. Paragraph 3 of the Complaint reflects the term "law firm" which was used to identify the type of business in which Respondents are engaged, to wit, "doing business as a law firm." Further, the caption of the Amended Complaint clearly reflects the names of 100 plus Respondents, and the voluminous listing is followed with a specific statement, to wit "partners practicing law under the firm name of SCHNADER, HARRISON, SEGAL & LEWIS."

Respondents (who are bound by the code of ethics) failed to reveal within their brief that Petitioner, via her motion to remand, enunciated stringent efforts which she made to amass the identification of all Respondents, prior to filing her Superior Court Complaint, and the efforts made by Petitioner were verifiable. It is evident from the stringent efforts made by Petitioner to amass the identification of all Respondents, that such efforts cannot, by any stretch of the imagination, remotely infer that Petitioner attempted to sue, or believed in her mind or other otherwise, that she was suing an entity.

Day v. Avery is clearly distinguishable from the instant case, and notwithstanding Respondents' fixation upon this case, Respondents obviously cannot change Petitioner into J. Edward Day.

Although Respondents attempted to embellish their stale argument by having shrewdly interjected [at p.3] that Petitioner named "new" defendants in her Amended Complaint, it is undisputed that 99

defendants, who could not be identified by Petitioner at the time of filing her Superior Court Complaint, immediately came forth and showed themselves as defendants, via Respondents' compulsory counterclaim, which, on its face, contradicts Respondents' newly found assertion.

Although Respondents feverishly attempt to hide behind diversity of citizenship to support their improvident removal of this action from the forum where the fraudulent charges were formulated, Respondents (like the lower courts) failed to broach the statutory provisions enacted by Congress. Nonetheless, the fact remains that Respondents removed Petitioner's action from the Superior Court in violation of 28 U.S.C. §1441(b). Although Respondents now claim [at p.7] that they removed Petitioner's action "under 28 U.S.C. §1441(a)," as far back as November 29, 1990, Respondents asserted that they removed the action "under 28 U.S.C. §1441(b)." [A.172, A.183]

Although Respondents attempted to support the denial of remand rendered by Judge Fullam in the Eastern District of Pennsylvania, and by Judge Lamberth in the District of Columbia, the Chief Judge in the Eastern District of Pennsylvania specifically stated in his March 26, 1991 ruling "[t]here is nothing to be served in the proper administration of the dispute between the parties that supports allowing the removal of an action from a jurisdiction [Superior Court] that employs a compulsory counterclaim rule to another jurisdiction [District of Columbia District Court] that employs a compulsory counterclaim rule to defeat the applicability of the compulsory counterclaim rule." [Emphasis added] [10a] Respondents cannot override the definitive statements made by the Chief Judge in connection with the removal of Petitioner's action.

In a further effort to camouflage their defective argument, Respondents propounded falsified information by averring at page 5, that the Pennsylvania District Court held "that it had subject matter jurisdiction . . . ." The Pennsylvania District Court did not state in its December 2, 1993 ruling [35-36a] that it had subject matter jurisdiction, and moreover, the Pennsylvania District Court never stated in any ruling that it had subject matter jurisdiction over Petitioner's action. [37-40a; 44-48a]

Respondents interjected yet another newly found assertion on page 2 of their brief, by claiming that Petitioner, in her October 5, 1990 Superior Court Complaint "alleged that the firm overcharged her . . . ." Nowhere within Petitioner's 20-page Superior Court Complaint and/or within her Amended Complaint can Respondents' falsified statement be found. Likewise, Respondents' falsified statement will not be found anywhere in the record. Apparently Respondents (via their falsified statement) were attempting to undercut the FRAUD claims, by attempting to depict the claims as involving a simple fee dispute, and apparently Respondents were attempting to hide the fraud perpetrated upon MSPB as well as EEOC.

In Petitioner's Superior Court Complaint, as well as in her Amended Complaint, Petitioner specifically stated that "the fraudulent acts, which were uncovered by Plaintiff, declares the entire bill as questionable." [Emphasis added] [App. 23a]

Nonetheless, Respondents are attempting to delude this Court into believing that the petition only raises the issue involving the denial of remand, and Respondents are further attempting to persuade this Court into believing that the remaining rulings only involve "issues of no importance to anyone except the litigants in this case . . . ." [Brief in Opp., p. 7] Notwithstanding Respondents' unsupported conclusionary statement, the ramifications of the issues raised in the petition are far reaching. The very 'nature' of this case clearly illuminates that the issues transcend the litigants.

Ducking and dodging the issues obviously will not erase the clear-cut facts which envelope this case. Fraud was committed by Respondents in formulating their charges for legal services while milking monies from Petitioner and from the U. S. Treasury. There is no way to make a quantum leap over the facts of this case. Similarly, there is no way to by-pass the record in this case, which amply demonstrates that the lower courts, in concert, deliberately failed to apply statutory provisions and the Federal Rules of Civil Procedure in dismissing Petitioner's multi-million dollar, 4-Count Complaint against these licensed attorneys.

Taxpayers obviously are not litigants in this action. Nonetheless,

Respondents sifted monies from taxpayers by way of MSPB, EEOC, and the U. S. Treasury, respectively.

The highest court in this nation cannot allow this 'type' of case to be swept-under-the-rug. This case presents a real danger to taxpayers, as well as presents a danger to every American citizen who utilizes the services of attorneys.

Respondents' sorely defective brief should shock the conscience of every Supreme Court Justice, and the Supreme Court should move forth without hesitation, and GRANT the Petition for Writ of Certiorari.

CONCLUSION

For the reasons previously outlined in the petition, and based upon the foregoing reasons, this Court should grant the petition for writ of certiorari.

Respectfully submitted,

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May 5, 1995